

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3280 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE N.N.MATHUR

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

NARENDRASINH BAHADURSINH JADEJA

Versus

STATE OF GUJARAT

Appearance:

MR SR BRAHMBHATT for Petitioner

MR DA BAMBHANIA for Respondent No. 1

NOTICE SERVED for Respondent No. 2, 3

CORAM : MR.JUSTICE N.N.MATHUR

Date of decision: 25/06/98

ORAL JUDGEMENT

RULE.

The petitioner was recruited on the post of Police Sub-Inspector in the year 1978. An 'adverse remark' entered in the Annual Confidential Report, was served upon him for the period 1.4.1996 to 31.3.1997 under communication dated 18.6.1997, the english translation of which is as under:

"The working is average. By obtaining stay order, he is staying in Bhavnagar district since years. He has also obtained stay order for not being transferred from LCB."

For the convenience, the alleged adverse entry can be divided into two parts. First is that his work is 'average'. So far as this part is concerned, an 'average working' cannot be treated as bad or adverse remark. The second part is regarding obtaining stay order from the Court of law. Perhaps there is a wrong notion that the orders are obtained by a party from a Court. The Court, after consideration of the matter and on application of judicial mind, passes an order. So if the competent Court has granted any stay order, it cannot be said that the petitioner has obtained the same. However, a citizen has right to approach the Court. If a person has approached the Court and ventilated his grievance and on that basis the Court has granted any stay order, it cannot be considered as an 'adverse entry'.

2. In view of the aforesaid, this Special Civil Application is allowed and the entry referred to above in the Service record described as 'adverse entry' for the period 1.4.1996 to 31.3.1997 under communication dated 18.6.1997 is quashed and set aside. So far as the second part referred to above is concerned, it is made clear that the first part also does not constitute as 'adverse entry'. Rule made absolute accordingly.

msh